

LETTER

FROM THE

GOVERNOR OF THE STATE OF MARYLAND,

TRANSMITTING A COPY OF AN ACT OF

The Legislature of said State,

ENTITLED

“An act to confirm an act of the General Assembly of Virginia,” entitled ‘An act incorporating the Chesapeake and Ohio Canal Company.’”

FEBRUARY 2, 1825.

Referred to the Committee on Roads and Canals.

WASHINGTON:

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1825.

AN ACT TO

TO AMEND AN ACT

TO

TO

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IN COUNCIL, Annapolis, February 1, 1825.

SIR: In compliance with a resolution of the Legislature of this state, I have the honor to transmit to you a copy of a law, passed at the present session of the General Assembly of Maryland, entitled "An act to confirm an act of the General Assembly of Virginia, entitled 'An act incorporating the Chesapeake and Ohio Canal Company,'" with a request that it may be submitted to the consideration of the honorable body over which you preside.

With great respect,

I have the honor to be,

Your obedient servant,

SAMUEL STEVENS.

The Hon. the SPEAKER

of the House of Representatives.

An act to confirm an act of the General Assembly of the State of Virginia, entitled An act incorporating the Chesapeake and Ohio Canal Company.

Whereas the General Assembly of Virginia have, heretofore, at the December session of the said General Assembly, in the year eighteen hundred and twenty-three, passed an act, entitled "An act, incorporating the Chesapeake and Ohio Canal Company," in the substance, or words following:

Whereas a navigable canal, from the tide water of the river Potomac, in the District of Columbia, to the mouth of Savage creek, on the north branch of said river, and extending thence, across the Alleghany mountain, to some convenient point on the navigable waters of the river Ohio, or some one of its tributary streams, to be fed through its course on the east side of the mountain, by the river Potomac, and the streams which empty therein; and on the western side of the mountain, and in passing over the same, by all such streams of water as may be beneficially drawn thereto, by feeders, dams, or any other practicable mode, will be a work of great profit and advantage to the people of this state, and of the neighboring states; and may, ultimately, tend to establish a connected navigation between the eastern and western waters, so as to extend and multiply the means and facilities of internal commerce, and personal intercourse, between the two great sections of the United States, and to interweave, more closely, all the mutual interests and affections that are calculated to consolidate and perpetuate the vital principles of union:

And whereas it is represented to this General Assembly, that the Potomac company are willing, and desirous, that a charter shall be granted to a new company, upon the terms, and conditions hereinafter expressed; and that the charter of the present company shall cease and determine:

SEC. 1. *Be it therefore enacted by the General Assembly of Virginia,* That, so soon as the legislatures of Maryland and Pennsylvania, and the Congress of the United States, shall assent to the provisions of this act, and the Potomac company shall have signified their assent to the same by their corporate act, a copy whereof shall be delivered to the Executive of the several states aforesaid, and to the Secretary of the Treasury of the United States; there shall be appointed by the said Executives and the President of the United States, three commissioners on the part of each state, and of the Government of the United States, any one of whom shall be competent to act for his respective government; the said commissioners shall cause books to be opened at such times and places as they shall think fit, in their respective states and the District of Columbia, under the management of such persons as they shall appoint, for receiving subscriptions to the capital stock of the company hereinafter incorporated, which subscriptions may be made either in person or by power of attorney, and notice shall be given in such manner as may be deemed advisable, by one or more of the said commissioners, of the time and places of opening the books.

SEC. 2. *And be it enacted,* That the said commissioners shall cause the books to be kept open at least forty days; and, within twenty days after the expiration thereof, shall call a general meeting of the subscribers, at the City of Washington, of which meeting notice shall be given, by a majority of the commissioners aforesaid, in at least four of the newspapers printed in Pennsylvania, Maryland, Virginia, and the District of Columbia, at least twenty days next before the said meeting; and such meeting shall and may be continued from day to day, until the business is finished; and the commissioners, at the time and place aforesaid, shall lay before such of the subscribers as shall meet, according to the said notice, the book containing the state of the said subscriptions; and if one fourth of the capital sum of six millions of dollars should appear not to have been subscribed, then the said commissioners, or a majority of them, at the said meeting, are empowered to take and receive subscriptions to make up such deficiency, and may continue to take and receive such subscriptions for the term of twelve months thereafter, and a just and true list of all the subscribers, with the sum subscribed by each, shall be made out and returned by the said commissioners, or by a majority of them, under their hands, to the Board of Public Works of this state, to the Governor and Council of the state of Maryland, to the Secretary of the state of Pennsylvania, and to the Secretary of the Treasury of the United States, to be carefully preserved; and, in case more than six millions of dollars shall be subscribed, then the sum subscribed shall be reduced to that amount, by the said commissioners, or a majority of them,

by beginning at, and striking off, a share from the largest subscription or subscriptions, and continue to strike off a share from all subscriptions under the largest and above one share, until the same is reduced to the capital aforesaid, or until a share is taken from all subscriptions above one share; and lots shall be drawn between subscribers of equal sums, to determine the number of shares which each subscriber shall be allowed to hold, on a list to be made for striking off as aforesaid; and, if the sum subscribed still exceed the capital aforesaid, then to strike off, by the same rule, until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions reduced to one share, respectively; and, if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded in order to reduce the subscription to the capital aforesaid, which striking off shall be certified on the lists aforesaid; and the said capital stock of the company hereby incorporated, shall consist of six millions of dollars, divided into sixty thousand shares of one hundred dollars each; of which every person subscribing, may take and subscribe for one or more whole shares, and such subscriptions may be paid and discharged either in the legal currency of the United States, or in the certificates of stock of the present Potomac Company, at the par or nominal value thereof, or in the claims of the creditors of the said company, certified by the acting president and directors to have been due, for principal and debt, on the day on which the assent of the said company shall have been signified by their corporate act, as herein before required: *Provided*, That the said certificates of stock shall not exceed, in the whole amount, the sum of three hundred and eleven thousand one hundred and eleven dollars and eleven cents; nor the said claims the sum of one hundred and seventy five thousand eight hundred dollars: *Provided, also*, That the stock so paid for in certificates of the stock of the present company, and of the debts due from the said company, shall be entitled to dividend only, as hereinafter provided, and that no payment shall be received in such certificates of stock, until the Potomac Company shall have executed the conveyance prescribed by the thirteenth section of this act; and provided, that, unless one-fourth of the said capital shall be subscribed as aforesaid, all subscriptions, made in consequence of this act, shall be void; and in case one fourth, and less than the whole capital shall be subscribed as aforesaid, then the said commissioners, or a majority of them, are hereby empowered and directed to take and receive the subscriptions which shall first be offered in whole shares as aforesaid, until the deficiency shall be made up, a certificate of which additional subscription shall be made under the hands of said commissioners, or a majority of them, for the time being, and returned as aforesaid.

SEC. 3. *And be it enacted*, That, whenever one-fourth, or a greater part of the said stock shall have been subscribed, in the manner aforesaid, then the subscribers, their heirs and assigns, shall be, and are hereby declared to be, incorporated into a company, by the name of the "Chesapeake and Ohio Canal Company," and may sue and be sued, and as such shall have perpetual succession, and a

common seal, and the estates, rights, and interests, of the said company, shall be adjudged and taken in law to be real estate; and it shall thereupon be the duty of the said commissioners, or a majority of them, to call a general meeting of the said subscribers, at such time and place as they or a majority of them shall appoint, after advertising the same in such public prints, as they, or a majority of them, may think proper; and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and six directors for conducting the said undertaking, and managing all the said company's business and concerns, for and during such time, not exceeding three years, as the said subscribers, or a majority of them, shall think fit; and, in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share, as far as ten shares, and one vote for every five shares above ten, by him or her held at the time, in the stock of the said company; and any proprietor, by writing under his or her hand, executed before two witnesses, may depute any other member or proprietor to vote and act as proxy, for him or her, at any general meeting: *Provided, also,* That no officer or director of said company shall, under any circumstances, be allowed to vote on any stock but his own.

SEC. 4. *And be it enacted,* That the said president and directors, and their successors, or a majority of them, assembled, shall have full power and authority to appoint, and at their pleasure dismiss, such engineer or engineers, and agent or agents, as they may deem expedient, and to fix their compensation, and to agree with any person or persons, on behalf of the said company, to cut canals, erect dams, open feeders, construct locks, and perform such other works, as they shall judge necessary or expedient, for completing the canal herein before mentioned and described; and out of the money arising from the subscriptions and tolls and other aids, hereinafter given, to pay for the same, and to repair and keep in order the said canals, locks, and other works, necessary thereto, and to defray all incidental charges; and also to appoint a treasurer, clerk, and other officers, toll-gatherers, managers, and servants, as they shall judge requisite; and to agree for and settle their respective wages or allowances, and to settle, pass, and sign their accounts; and also to make and establish rules of proceeding, and to transact all other business and concerns of the said company, in and during the intervals between the general meetings of the same; and they shall be allowed, as a compensation for their trouble therein, such sum of money, as shall, by a general meeting of the stockholders, be determined: *Provided, always,* That the treasurer shall give bond, in such penalty, and with such security, as the said president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made him for his services shall not exceed three dollars in the hundred, for the disbursements by him made; and that no officer in the company shall have any vote in the settlement or passing of his own account.

SEC. 5. *And be it enacted*, That, on all subscriptions which shall not be paid, as hereinbefore provided, in certificates of the stock, or debts of the present Potomac Company, there shall be paid, at the time of subscription, on each share, one dollar; and thereafter, when the company shall be formed, the stock subscribed shall be paid on such instalments, and at such times, as the president and directors shall, from time to time, require, as the work advances: *Provided*, That not more than one third part shall be demanded within any year from the commencement of the work, nor any payment demanded within any year, from the commencement of the work, nor any payment demanded, until at least sixty days public notice thereof shall have been given, in such public newspapers as the said president and directors shall direct such notices to be published in; and whenever any subscriber shall fail to pay any instalment called for by the company, it shall and may be lawful for the company, upon motion, to be made in any court of record, after ten days notice, to obtain judgment against the subscriber so failing to pay; or, the said company, at their option, may, after giving sixty days notice in such public newspaper, printed within the District of Columbia, as they may judge proper, sell the stock of such subscriber; and if the proceeds of any such sale shall exceed the sum demanded, the surplus, after paying the expenses of such sale, shall be paid to the subscriber so failing, or to his legal representatives; and the purchaser at such sale, shall become a stockholder, and be subject to the same rules and regulations, and entitled to the same privileges, rights, and emoluments, as original subscribers under this act.

SEC. 6. And to continue the succession of the said president and directors, and to keep up the same number, *Be it enacted*, That, from time to time, upon the expiration of the same term for which the said president and directors were appointed, the stockholders of the said company, at the next general meeting, shall either continue the said president or directors, or any of them, or choose others in their stead; and, until such choice be made, the president and directors for the time being, shall continue in office; and, in case of the death, removal, resignation, or incapacity of the president, or any of the said directors, may and shall, in manner aforesaid, elect any other person or persons to be president and directors, in the room of him or them so dying, removing, or resigning; and may, at any of their general meetings, remove the president or any of the directors, and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

SEC. 7. *And be it enacted*, That every president and director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

SEC. 8. *And be it enacted*, That the presence of stockholders, having a major part of the stock at least, shall be necessary to constitute a general meeting of the stockholders, which shall be held on the first Monday in June in every year, at such convenient town or place, as shall be, from time to time, appointed by the said general meeting;

but, if a sufficient number shall not attend on that day, the stockholders who do attend, may adjourn from time to time, until the stockholders holding the major part of the stock do attend, and the business of the company is finished; to which meeting the president and directors shall make report, and render distinct accounts of all their proceedings; and, on finding them fairly and justly stated, the stockholders then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on the company's books; and at such yearly general meetings, after leaving in the hands of the treasurer such sums as the stockholders, or a majority of them, shall judge necessary for repairs and contingent charges, an equal dividend of all the nett profits arising from the tolls hereby granted, shall be ordered and made to and among all the stockholders of the said company, in proportion to their several shares, subject to the provisions and enactments hereinafter declared; and, upon any emergency in the internal between the said yearly meetings, the said president, or a majority of the said directors, may appoint a general meeting of the stockholders of the company, at any convenient town or place, giving at least one month's previous notice, in at least four of the newspapers in Pennsylvania, Maryland, Virginia, and the District of Columbia, which meeting may be adjourned and continued, as aforesaid. And, in case the stockholders, or a majority of them, in any general meeting aforesaid, shall deem it expedient to order a semi-annual rather than a yearly dividend as aforesaid, then, in like manner, with like notice, and under like restrictions, there shall be a half-yearly or semi-annual dividend of nett profits declared and paid.

SEC. 9. *And be it enacted*, That, for and in consideration of the expenses the said stockholders will be at, not only in cutting the said canal, erecting locks and dams, providing aqueducts, feeders, and other works; and in improving and keeping the same in repair, the said canal, and all other works aforesaid, or required to improve the navigation thereof, at any time hereafter, with all their profits, subject to the limitations herein provided, and to none other, shall be, and the same are hereby, vested in the said stockholders, their heirs and assigns, forever, as tenants in common, in proportion to their respective shares, and be forever exempt from the payment of any tax, imposition, or assessment, whatsoever; and that it shall and may be lawful for the said president and directors, at all times, forever, hereafter, to demand and receive, at such places as shall hereafter be appointed by the president and directors aforesaid, tolls for the passage of vessels, boats, rafts, produce, and all other articles, at such rates as the said president and directors may hereafter allow and establish, according to the provisions of this act.

SEC. 10. *And be it enacted*, That, if the commissioners hereby required to be appointed, shall die, resign, or refuse to act, the vacancy occasioned thereby shall be filled by the same authority by which the original appointment was made; and the person or persons appointed to fill such vacancy, shall have all the power and authority which was vested in the commissioner whose place he or they shall

be appointed to supply; and when any part of the canal aforesaid shall have been completed, according to the true intent and meaning of this act, the president and directors of the company hereby created, shall have power, and it shall be their duty, to ordain and establish a rate of tolls to be paid upon boats, vessels, rafts or other property, passing on the part of the canal so completed, and so, from time to time, as part or parts shall be completed, and until the eastern section thereof shall be finished up to the mouth of Savage river or creek, and thereafter until the entire canal shall have been finished, according to the true intent and meaning of this act; for the collection of which tolls, the president and directors shall have power to establish so many toll-houses, and at their pleasure to appoint and remove so many collectors, and at such places as, from time to time, they may judge expedient, and the said president and directors shall have full authority, subject to the direction and control of a majority in interest, of the stockholders represented in any general meeting, to regulate and fix a tariff of tolls, not exceeding an average of two cents per ton per mile, and so to adjust the said tolls, in relation to the capacity or burthen of the boats, and the dimensions of the rafts passing the locks of the said canal, as to promote economy of water and time in the navigation thereof.

SEC. 11. *And be it enacted*, That the president and directors shall annually, or semi-annually, declare and make such dividend of the nett profits from the tolls to be received, according to the provisions of this act, and from the other resources of the company, as they may deem advisable, after deducting therefrom the necessary current, and the probable contingent expenses, to be divided among the proprietors of the stock of the said company, in proportion to their respective shares, in manner following, that is to say: if such nett profits shall not exceed ten per cent on the amount of shares which shall have been paid for in current money of the United States, and expended on the eastern section of the said canal, then the whole thereof shall be divided among the holders of such shares, in proportion to their respective shares; but if such nett profits shall exceed the rate of ten per cent. per annum, in any year, on such amount of stock, then the surplus shall be divided among such stockholders as shall have paid for their shares in certificates of the debts of the Potomac company, until they shall therefrom have received a dividend of six per cent, and if a surplus yet remain, the same shall be divided among the stockholders who shall have paid for their shares in certificates of the stock of the Potomac company, until they shall have received therefrom a dividend of six per cent per annum on such shares; and if a surplus still remain, so long as the western section of the canal shall remain unfinished, such surplus shall be applied, from time to time, to the construction and completion thereof, in such mode as the president and directors, under such rules and regulations, not inconsistent with the constitution of the United States, or of the several states aforesaid, as the stockholders or a majority thereof, in general meeting, may prescribe, until the western section of the canal shall be also completed;

after which, if such surplus shall still arise, the same shall be divided among all the stockholders, without discrimination, in proportion to their respective shares, until the annual dividend thereon shall have reached fifteen per cent. beyond which it shall never extend; but should the nett revenue of the company exceed that amount, for any two years in succession, then such excess shall be applied by the president and directors in such mode as shall be agreed on by a majority of the stockholders convened in general meeting; first, to strengthening and improving the works of the canal of every description: requiring the same next to the accommodation where not already provided, of the inhabitants of the shores of the river Potomac, and of the country drained by the tributary streams thereof, now navigable, or which may hereafter become so, by affording to them, in the best practicable mode, a safe and easy access to the canal, from the surface of the main river, and of the said streams emptying therein; and last of all, to the erection of such walls of stone, or other materials, along the water margin of the canal, as shall fit the same for the navigation of steam boats, of a size adapted to the said canal; and should the said tolls continue, after all such improvements have been completed, to nett more than fifteen per cent. per annum to the stockholders, for any two years in succession, the tolls upon the same shall be reduced by the president and directors, according to some just and equitable ratio, till the said dividend shall fall to fifteen per cent. per annum: *Provided*, That, should the said dividend thereafter sink below fifteen per cent. the said tolls, or a part thereof, may be renewed, till the said nett dividend reaches that amount; and for any, or all of the within mentioned purposes, the said president and directors are empowered to borrow, in behalf of the company, on the credit of such excess of tolls, such sum or sums of money, as they may deem expedient, at such rate of interest, and with such delay of payment, as they may stipulate, with the previous consent of a majority of the stockholders in general meeting convened.

SEC. 12. *And be it further enacted*, That it shall be the duty of the president and directors of the Chesapeake and Ohio Canal Company, so long as there shall be and remain any creditor of the Potomac Company, who shall not have vested his demand against the same in the stock of the Chesapeake and Ohio Canal Company, to pay such creditor or creditors, annually, such dividend or proportion of the nett amount of the revenues of the Potomac Company, on an average of the last five years preceding the organization of the said proposed company, as the demand of the said creditor or creditors at this time, may bear to the whole debt of one hundred and seventy-five thousand eight hundred dollars.

SEC. 13. *And be further enacted*, That, whenever the Potomac Company shall have declared its assent to the provisions of this act, in the manner hereinbefore provided, it shall be lawful for the said company to surrender its charter, and convey, in due form of law, to the Chesapeake and Ohio Canal Company, hereby incorporated, all the property, rights, and privileges, by them owned, possessed, and enjoyed,

under the same; and, thereupon, it shall be lawful to, and for, the said company hereby proposed to be created, to accept such surrender and transfer, and to hold, possess, use and, occupy, all the said property, rights, and privileges, in the same manner, and to the same effect, as the said Potomac Company now hold, possess, and occupy the same by law; and, thereupon, the charter of the said Potomac Company shall be, and the same is hereby, vacated and annulled, and all the rights and powers thereby granted to the Potomac Company shall be vested in the company hereby incorporated; and it shall be the duty of the said last mentioned Company, until every section of the contemplated canal shall be completed, so as to be used and enjoyed for the purposes of navigation, to keep the corresponding part of the river in a proper state for navigation, and in good order, as the same now is; and in default thereof, they shall be, in all things responsible, in the same manner as the Potomac Company is now responsible; and in all rivulets, streams, creeks, and rivers, required for the western section of the said Chesapeake and Ohio Canal, the same rights shall be, and are hereby, vested in the Chesapeake and Ohio Canal Company by this act, as the charter of the Potomac Company, vested in the said company, in relation to the waters of the Potomac, and the tributary streams thereof.

SEC. 14. *And be it enacted*, That the said canal, and the works to be erected thereon, in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities, and produce, whatever, on payment of the tolls to be imposed, as provided by this act; and no other toll or tax whatever, for the use of the said canal and the works thereon erected, shall, at any time hereafter be, imposed, but by consent of the said states, and of the United States.

SEC. 15. *And whereas*, It is necessary, for the making of the said canal, locks, dams, ponds, feeders, and other works, that a provision should be made for condemning a quantity of land for this purpose. *Be it enacted*, That it shall and may be lawful for the said president and directors, or a majority of them, to agree with the owners of any land, through which the said canal is intended to pass, for the purchase, or use and occupation thereof; and, in case of disagreement, or in case the owner thereof shall be a femme covert, under age, non compos, or out of the state or county, on application to a Justice of the Peace of the county in which such land shall be, the said Justice of the Peace shall issue his warrant, under his hand, to the sheriff of the county, to summon a jury of eighteen inhabitants of his county, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty days, thereafter; and the sheriff, upon receiving the said warrant, shall forthwith summon the said jury, and, when met, shall administer an oath or affirmation to every jurymen who shall appear, being not less than twelve in number, that he will faithfully, justly, and impartially, value the land, and all damages the owner thereof shall sustain, by cutting the canal through such land, or the

partial or temporary appropriation, use, or occupation, of such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person for favor or affection, nor any person grieve for malice, hatred, or ill will; and in every such valuation and assessment of damages, the jury shall be, and they are hereby instructed to consider, in determining and fixing the amount thereof, the actual benefit which will accrue to the owner from conducting the said canal through, or erecting any of the said works upon, his land, and to regulate their verdict thereby, except that no assessment shall require any such owner to pay, or contribute any thing to the said company where such benefit shall exceed, in the estimate of the jury, the value and damages ascertained as aforesaid; and the inquisition thereupon taken, shall be signed by the sheriff and some twelve or more of the jury, and returned by the sheriff to the clerk or prothonotary of his county, and unless good cause be shown against the said inquisition, it shall be affirmed by the court, and recorded; but if the said inquisition should be set aside, or if, from any cause no inquisition shall be returned to such court within a reasonable time, the said court may, at its discretion, as often as may be necessary, direct another inquisition to be taken, in the manner above prescribed, and upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and the quantity and duration of the interest and estate in the same required by the said company for its use, and their valuation shall be conclusive on all persons, and shall be paid for by the said president and directors to the owner of the land, or his legal representatives, and on payment thereof, the said company shall be seized of such land as of an absolute estate in perpetuity, or with such less quantity and duration of interest or estate in the same, or subject to such partial or temporary appropriation, use, or occupation, as shall be required and described as aforesaid, as if conveyed by the owner of them; and whenever, in the construction of the said canal, or any of the works thereof, locks, dams, ponds, feeders, tunnels, aqueducts, culverts, bridges, or works of any other description whatsoever appurtenant thereto, it shall be necessary to use earth, timber, stone, or gravel, or any other material to be found on any of the lands adjacent, or near thereto; and the said president and directors, or their agent, cannot procure the same for the works aforesaid, by private contract of the proprietor or owner, or in case the owner should be a femme covert, or non compos, or under age, or out of the state or county, the same proceedings, in all respects, shall be had as in the case before mentioned, of the assessment and condemnation of the lands required for the said canal, or the works appurtenant thereto.

SEC. 16. *And be it enacted,* That it shall be the duty of the company hereby incorporated, to cut, make, and construct the said canal, with good and sufficient locks, on the most improved plan for expedition in the use thereof; and with a width of not less than forty feet at the surface of the water therein, or of twenty-eight at the bottom thereof, unless the quality of the soil shall require a narrow base to admit of a sufficient slope to preserve the banks from

sliding down, and sufficient to admit, at all seasons, the navigation of boats and rafts, with a depth of four feet water at the least; and, whenever wastes shall be essential to the security of the said canal, and in no other situation whatever, along the same, the waste water of the said canal may be, from time to time, sold or disposed of by the said company, for the purpose of supplying such works and machinery, as require a water power. And along one side, at least, of the said canal, and such aqueducts as it may render necessary, there shall be provided throughout its whole extent, a towing path of sufficient breadth to apply the power of horses to the navigation thereof.

SEC. 17. *And be it enacted*, That it shall and may be lawful for any of the said stockholders to transfer his or her shares, by deed, executed before two witnesses, and registered, after the proof of the execution thereof, in the company's books, and not otherwise, except by devise, which devise shall also be exhibited to the President and Directors, and registered in the company's books before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls or dividends: *Provided*, That no transfer shall be made, except for one or more whole share or shares, and not for part of such share or shares, and that no share or shares shall, at any time, be sold, conveyed, or held in trust, for the use and benefit, or in the name of another, whereby the said President and Directors, or the stockholders of the said company, or any of them, shall or may be challenged, or made to answer concerning any such trust; but that every person, appearing as aforesaid, to be a stockholder, shall, as to the others of the said company, be, to every intent, taken absolutely as such; but, as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

SEC. 18. *And be it enacted*, That, if the said capital, and the other aids already granted by this act, shall prove insufficient, it shall and may be lawful for the said company, from time to time, to increase the said capital, by the addition of so many whole shares as shall be judged necessary by the said stockholders, or a majority of them present, at any general meeting of the said company; and the said President and Directors, or a majority of them, are hereby empowered and required, after giving at least two months previous notice thereof, in at least four of the newspapers printed in Virginia, Pennsylvania, Maryland, and the District of Columbia, to open books in the beforementioned states and district, for receiving and entering such additional subscriptions, in which the stockholders of the said company, for the time being, shall, and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose; and the said President and directors are hereby required to observe, in all other respects, the same rules therein, as are, by this act, prescribed for receiving and adjusting the first subscriptions, and, in like manner, to return, under the hands of any three or more of them, an exact list of such additional subscriptions, with the same subscribed, to the public authori-

ties as aforesaid, to be by them preserved as aforesaid; and all stockholders of such additional shares shall, and are hereby declared to be, from thenceforward, incorporated into the said company.

SEC. 19. *And be it enacted*, That, whenever it shall become necessary to subject the lands of any individual to the purposes provided for in this act, and their consent cannot be obtained, it shall and may be lawful for the company to enter upon such lands, and proceed to the execution of such works, as may be requisite, and that the pendency of any proceedings in any suit in the nature of a writ of *ad quod damnum*, or any other proceedings, shall not hinder or delay the progress of the work; and it shall be the duty of every court to give precedence to controversies which may arise between the company created by this act, and the proprietors of land sought to be condemned for public uses, and to determine them in preference to all other causes.

SEC. 20. *And be it enacted*, That the said canal shall be, and the same is hereby divided into two sections, to be denominated first and second, or eastern and western, respectively; that the first or eastern section shall begin at the District of Columbia on tide water, and terminate at or near the bank of Savage river or creek, which empties into the north branch of the Potomac, at the base of the Allegany mountain; that the second or western section shall commence at the said termination, and extend along the valley of Savage river or creek, so far as the same, or any branch thereof, as may reach some convenient point thereon, for connecting the eastern and western waters, by a tunnel through, or an open cut across the dividing ridge between the same; and thence, after crossing the said dividing ridge, shall proceed to the highest steam-boat navigation of the Ohio river, or of some one tributary stream thereof; in such direction as, in the opinion of the said President and Directors, shall be best calculated for the attainment of the end set forth in the preamble of this act: that the said President and Directors shall first construct the eastern section aforesaid, out of the capital stock hereinbefore mentioned, and shall next proceed to construct, with all possible dispatch, the western section thereof. In case the said company shall not begin the said work within two years after the company shall have been formed, or if the work, having been so begun, shall not be diligently prosecuted, so that one hundred miles of the said canal, with the adequate locks and incidental improvements, shall not be completed and in fit order for navigation, in the term of five years from the commencement of the work, then all interest of the said company in the navigation and tolls, shall cease and determine, and their charter shall be thereafter taken to be null and void: and so, in like manner, shall the said charter be null and void, if the entire eastern section be not completed in the term of twelve years from the said commencement. And should the said company fail to begin the western section of the said canal in two years after the time allowed as aforesaid for the completion of the eastern section, or having begun the western section shall fail to complete the same in six years after such begin-

ning, then, all right, title, and interest, of the said company in the said western section, shall cease and determine, and the several states aforesaid, shall have full authority to incorporate another company for the completion of such section, or to complete the same in any other mode that they may deem expedient. And if, after the completion of the said canal and locks, the President and Directors shall fail to keep the same in repair for twelve months at any time, then, in like manner, the interest of the company in the navigation and tolls shall cease, and their charter shall be forfeited.

SEC. 21. *And be it further enacted*, That the right to the waters of the river Potomac, for the purpose of any lateral canal or canals, which the state of Virginia or Maryland may authorize to be made, in connexion with the said canal, is reserved to the said states respectively; that a similar right is reserved to the state of Pennsylvania in relation to the rivers and streams within the territory of that state, the waters of which may be used in supplying the western section of the said canal; that the Government of the United States shall retain the power to extend the said canal in or through the District of Columbia, on either or both sides of the river Potomac; *Provided*, that, before this act shall take effect, the Congress of the United States shall authorize the states of Virginia and Maryland, or either of them, to take and continue a canal from any point of the above named canal, or the termination thereof, through the territory of the District of Columbia, or any part thereof to the territory of the said states, or either of them, in any direction they may deem proper, upon the same terms and conditions, and with all the rights and privileges and powers of every kind whatsoever, that the company incorporated by this act have to make the Chesapeake and Ohio canal. *And provided also*, that, in taking or extending such lateral canal or canals through the District of Columbia, by either of the said states, no impediment or injury be done to the navigation of the said Chesapeake and Ohio canal.

SEC. 22. *And be it further enacted*, That this act, or so much thereof as respects the canal and works to be designed to be constructed in the District of Columbia and the states of Virginia and Maryland, shall take effect, with such necessary modification in the construction thereof as shall fit it for such limited application or use, upon the assent of the Congress of the United States, and the legislature of Maryland being given thereto, and upon its receiving the further assent of the legislature of Pennsylvania, the whole and every section and part thereof, shall be valid and in full force and operation.

SEC. 23. *Be it further enacted*, That the assent of the Congress of the United States, required by the first section of this act, and the authority conferred by the fourteenth section, is understood and taken to relate only to their authority as the legislature of the District of Columbia.

SEC. 24. *Be it further enacted*, That all acts and parts of acts coming within the purview of this act, shall be, and the same are hereby repealed.

Therefore, be it enacted, by the General Assembly of Maryland, That the said act of the General Assembly of Virginia, be, and the same is hereby accepted, assented to, and confirmed.

And be it further enacted and declared, That, by confirming and accepting the act of Virginia. it is not intended by the Legislature of Maryland, to deny to the Congress of the United States, the constitutional power to legislate on subjects of Roads and Canals. And for the purpose of removing all doubt as to the right of the state of Maryland, to intersect the said Chesapeake and Ohio Canal, for the purpose of conducting a lateral canal or canals to Baltimore, or elsewhere in the state of Maryland, from that part of the said Chesapeake and Ohio Canal, which shall be within the District of Columbia—

Be it further enacted and declared, That the said act of Virginia, has been accepted and confirmed by the Legislature of Maryland, on the express condition, that the act of Congress contemplated by the twenty-first section of the Virginia act, shall direct and provide some safe and practicable mode, whereby such lateral Canal or Canals, may be secured to the state of Maryland. and whereby also it may be determined whether such lateral canal or canals will injure the said Chesapeake and Ohio Canal, within the meaning and intention of the said twenty-first section of the Virginia act.

We hereby certify, that the foregoing is a true copy of the original act, as passed both branches of the Legislature at December Session, eighteen hundred and twenty-four.

WM. KILTY, *Clk. Sen. of Md..*

JOHN BREWER, *Clk. House Del.*

Annapolis, Jan. 31, 1825.